

## STATE TRUNK LINE HIGHWAY SYSTEM (EXCERPT)

Act 51 of 1951

**247.661 State trunk line fund; separate fund; appropriation; purposes; order of priority; expenditures; borrowing by local road agency; deductions; approval; notice; borrowing by state transportation commission; procedures for implementation and administration of loan program; expenditure for administrative expenses; conduct of performance audits; contracts not subject to revised municipal finance act; annual report listing warranties; definitions.**

Sec. 11. (1) A fund to be known as the state trunk line fund is established in the state treasury as a separate fund. The money deposited in the state trunk line fund is appropriated to the department for the following purposes in the following order of priority:

(a) For the payment, but only from money restricted as to use by section 9 of article IX of the state constitution of 1963, of bonds, notes, or other obligations in the following order of priority:

(i) For the payment of contributions pledged before July 18, 1979 and required to be made by the state highway commission or the state transportation commission under contracts entered into before July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, for the payment of the principal and interest on bonds issued under 1941 PA 205, MCL 252.51 to 252.64, for the payment of which a sufficient sum is irrevocably appropriated.

(ii) For the payment of the principal and interest upon bonds designated "State of Michigan, State Highway Commissioner, Highway Construction Bonds, Series I", dated September 1, 1956, in the aggregate principal amount of \$25,000,000.00, issued pursuant to former 1955 PA 87 and the resolution of the state administrative board adopted August 6, 1956, for the payment of which a sufficient sum is irrevocably appropriated.

(iii) For the payment of the principal and interest on bonds issued under section 18b for transportation purposes other than comprehensive transportation purposes as defined by law and the payment of contributions pledged to the payment of principal and interest on bonds issued under section 18d and contracts entered into under section 18d by the state highway commission or state transportation commission to be made pursuant to contracts entered into under section 18d. A sufficient portion of the fund is irrevocably appropriated to pay, when due, the principal and interest on bonds or notes issued under section 18b for purposes other than comprehensive transportation purposes as defined by law, and to pay the annual contributions of the state highway commission and the state transportation commission as are pledged for the payment of bonds issued under contracts authorized by section 18d.

(b) For the transfer of money appropriated under section 10(1)(i) to the transportation economic development fund, but the transfer shall be reduced each fiscal year by the amount of debt service to be paid in that year from the state trunk line fund for bonds, notes, or other obligations issued to fund projects of the transportation economic development fund, which amount shall be certified by the department.

(c) For the transfer of money appropriated under section 10(1)(a) to the rail grade crossing account in the state trunk line fund for expenditure for rail grade crossing improvement purposes at rail grade crossings on public roads and streets under the jurisdiction of this state, counties, cities, or villages. The department shall select projects for funding in accordance with the following:

(i) Not more than 50% or less than 30% of this money and matched federal money shall be expended for state trunk line projects.

(ii) In prioritizing projects for this money, in whole or in part, the department shall consider train and vehicular traffic volumes, accident history, traffic control device improvement needs, and the availability of funding.

(iii) Consistent with the other requirements for this money, the first priority for money deposited under this subdivision for rail grade crossing improvements and retirement shall be to match federal money from the railroad-highway grade crossing improvement program or other comparable federal programs if a match is required under federal law.

(iv) If the department and a road authority with jurisdiction over the crossing formally agree that the grade crossing should be eliminated by permanent closing of the public road or street, the physical removal of the crossing, roadway within railroad rights of way and street termination treatment shall be negotiated between the road authority and railroad company. The money provided to the road authority as a result of the crossing closure shall be credited to its account representing the same road or street system on which the crossing is located and shall be used for any transportation purpose within that road authority's jurisdiction.

(d) For the transfer of money appropriated under section 10(1)(b) to the grade crossing surface account in

the state trunk line fund for expenditure for rail grade crossing surface improvement purposes at rail grade crossings on public roads and streets under the jurisdiction of counties, cities, or villages. Projects shall be selected for funding in accordance with the following:

(i) In prioritizing projects, the department shall consider vehicular traffic volumes, relative crossing surface condition, the ability of the railroad and local road authority to make coordinated improvements, and the availability of funding.

(ii) The grade crossing surface account shall fund 60% of the project cost, with the remaining 40% funded by the railroad company.

(iii) Funding under the grade crossing surface account shall be limited to items of work that are normally the responsibility of the railroad under section 309 of the railroad code of 1993, 1993 PA 354, MCL 462.309. Maintenance of the roadway approaches to the crossing will continue to be the responsibility of the party with jurisdiction over that roadway.

(e) For the total operating expenses of the state trunk line fund for each fiscal year as appropriated by the legislature.

(f) For the preservation of state trunk line highways and bridges.

(g) For the opening, widening, improving, construction, and reconstruction of state trunk line highways and bridges, including the acquisition of necessary rights of way and the work incidental to that opening, widening, improving, construction, or reconstruction. Those sums in the state trunk line fund not otherwise appropriated, distributed, determined, or set aside by law shall be used for the construction or reconstruction of the national system of interstate and defense highways, referred to in this act as "the interstate highway system" to the extent necessary to match federal aid money as the federal aid money becomes available for that purpose; and, for the construction and reconstruction of the state trunk line system.

(h) The department may enter into agreements with a local road agency or a private sector company to perform work on a highway, road, or street. The agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contract including maintenance, engineering services, and the acquisition of rights of way in connection with the work, by purchase or condemnation by any of the contracting parties in its own name, and for joint participation in the costs, but only to the extent that the contracting parties are otherwise authorized by law to expend money on the highways, roads, or streets. The department also may contract with a local road agency to advance money to a local road agency to pay the costs of improving railroad grade crossings on the terms and conditions agreed to in the contract. A contract may be executed before or after the state transportation commission borrows money for the purpose of advancing money to a local road agency, but the contract shall be executed before the advancement of any money to a local road agency by the state transportation commission, and shall provide for the full reimbursement of any advancement by a local road agency to the department, with interest, within 15 years after advancement, from any available revenue sources of the local road agency or, if provided in the contract, by deduction from the periodic disbursements of any money returned by the state to the local road agency.

(i) For providing inventories of supplies and materials required for the activities of the department. The department may purchase supplies and materials for these purposes, with payment to be made out of the state trunk line fund to be charged on the basis of issues from inventory in accordance with the accounting and purchasing laws of this state.

(2) Notwithstanding any other provision of this act, the department shall annually expend at least 90% of state revenue appropriated annually to the state trunk line fund less the amounts described in subdivisions (a) to (i) for the preservation of highways, roads, streets, and bridges and for the payment of debt service on bonds, notes, or other obligations described in subsection (1)(a) issued after July 1, 1983, for the purpose of providing money for the preservation of highways, roads, streets, and bridges. Of the amounts appropriated for state trunk line projects, the department shall, where possible, secure pavement warranties for full replacement or appropriate repair for contracted construction work on pavement projects whose cost exceeds \$2,000,000.00 and projects for new construction or reconstruction undertaken after the effective date of the 2015 amendatory act that amended this subsection. The department shall compile and make available to the public an annual report of all warranties that were secured under this subsection and all pavement projects whose costs exceed \$2,000,000.00 where a warranty was not secured as provided in subsection (14). If an appropriate certificate is filed under section 18e but only to the extent necessary, this subsection does not prohibit the use of any amount of money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund for the payment of debt service on bonds, notes, or other obligations pledging for the payment thereof money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund, whenever issued, as specified under subsection (1)(a). The amounts that are deducted from the state trunk line fund for the purpose of the calculation required by this subsection are as follows:

(a) Amounts expended for the purposes described in subsection (1)(a) for the payment of debt service on bonds, notes, or other obligations issued before July 2, 1983.

(b) Amounts expended to provide the state matching requirement for projects on the national highway system and for the payment of debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing money for the state matching requirements for projects on the national highway system.

(c) Amounts expended for the construction of a highway, street, road, or bridge to 1 or more of the following or for the payment of debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing money for the construction of a highway, street, road, or bridge to 1 or more of the following:

(i) A location for which a building permit has been obtained for the construction of a manufacturing or industrial facility.

(ii) A location for which a building permit has been obtained for the renovation of, or addition to, a manufacturing or industrial facility.

(d) Amounts expended for capital outlay other than for highways, roads, streets, and bridges or to pay debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing money for capital outlay other than for highways, roads, streets, and bridges.

(e) Amounts expended for the operating expenses of the department other than the units of the department performing the functions assigned on January 1, 1983 to the bureau of highways.

(f) Amounts expended pursuant to contracts entered into before January 1, 1983.

(g) Amounts expended for the purposes described in subsection (5).

(h) Amounts appropriated for deposit in the transportation economic development fund and the rail grade crossing account pursuant to section 10(1)(a) and (h).

(i) Upon the affirmative recommendation of the director of the department and the approval by resolution of the state transportation commission, those amounts expended for projects vital to the economy of this state, a region, or local area or the safety of the public. The resolution shall state the cost of the project exempted from this subsection.

(3) Notwithstanding any other provision of this act, the department shall expend annually at least 90% of the federal revenue distributed to the credit of the state trunk line fund in that year, except for federal revenue expended for the purposes described in subsection (2)(b), (c), (f), and (i) and for the payment of notes issued under section 18b(9) on the preservation of highways, roads, streets, and bridges. The requirement of this subsection is waived if compliance would cause this state to be ineligible according to federal law for federal revenue, but only to the extent necessary to make this state eligible according to federal law for that revenue.

(4) Notwithstanding any other provision of this section, the department may loan money to a local road agency for paying capital costs of transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 from the proceeds of bonds or notes issued pursuant to section 18b or from the state trunk line fund. Loans made directly from the state trunk line fund shall be made only after provision of money for the purposes specified in subsection (1)(a) to (f). Loans described in this subsection are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(5) A local road agency may borrow money from the proceeds of bonds or notes issued under section 18b or the state trunk line fund for the purposes set forth in subsection (4) that shall be repayable, with interest, from 1 or more of the following:

(a) The money to be received by the local road agency from the Michigan transportation fund, except to the extent the money has been or may in the future be pledged by contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the future be pledged for the payment of the principal and interest upon notes issued under 1943 PA 143, MCL 141.251 to 141.254, or has been or may in the future be pledged for the payment of principal and interest upon bonds issued under section 18c or 18d, or has been or may in the future be pledged for the payment of the principal and interest upon bonds issued under 1952 PA 175, MCL 247.701 to 247.707.

(b) Any other legally available money of the local road agency, other than the general funds of the county.

(6) If required by the department, loans made under subsection (4) are payable by deduction by the state treasurer, upon direction of the department, from the periodic disbursements of any money returned by this state under this act to the local road agency, but only after sufficient money has been returned to the local road agency to provide for the payment of contractual obligations incurred or to be incurred and principal and interest on notes and bonds issued or to be issued under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d. The interest rates and payment schedules of any loans made from the proceeds of bonds or notes issued pursuant to section 18b shall be established by the department to conform as closely as practicable to the interest rate and repayment

schedules on the bonds or notes issued to make the loans. However, the department may allow for the deferral of the first payment of interest or principal on the loans for a period of not to exceed 1 year after the respective first payment of interest or principal on the bonds or notes issued to make the loans.

(7) The amount borrowed by a local road agency under subsection (5) shall not be included in, or charged against, any constitutional, statutory, or charter debt limitation of the county, city, or village and shall not be included in the determination of the maximum annual principal and interest requirements of, or the limitations upon, the maximum annual principal and interest incurred under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d.

(8) The local road agency is not required to seek or obtain the approval of the electors, the municipal finance commission or its successor agency, or, except as provided in this subsection, the department of treasury to borrow money under subsection (5). The borrowing is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5. The department shall give at least 10 days' notice to the state treasurer of its intention to make a loan under subsection (4). If the state treasurer gives notice to the director of the department within 10 days of receiving the notice from the department, that, based upon the then existing financial or credit situation of the local road agency, it would not be in the best interests of this state to make a loan under subsection (4) to the local road agency, the loan shall not be made unless the state treasurer, after a hearing, if requested by the affected local road agency, subsequently gives notice to the director of the department that the loan may be made on the conditions that the state treasurer specifies.

(9) The state transportation commission may borrow money and issue bonds and notes under section 18b to make loans to a local road agency for the purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, as provided in subsection (4). A single issue of bonds or notes may be issued for the purposes specified in subsection (4) and for the other purposes specified in section 18b. The house and senate transportation appropriations subcommittees shall be notified by the department if there are extras and overruns sufficient to require approval of either the state administrative board or the commission, or both, on any contract between the department and a local road agency or a private business.

(10) The director of the department, after consultation with representatives of the interests of local road agencies, shall establish, by intergovernmental communication, procedures for the implementation and administration of the loan program established under subsections (4) to (9).

(11) Not more than 8% per year of all of the money received by and returned to the department from any source for the purposes of this section may be expended for administrative expenses. The department shall be subject to section 14(5) if more than 8% per year is expended for administrative expenses. As used in this subsection, "administrative expenses" means expenses that are not assigned including, but not limited to, specific road construction or preservation projects and are often referred to as general or supportive services. Administrative expenses do not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices that are assigned, but not limited to, specific road construction projects or preservation activities.

(12) Any performance audits of the department shall be conducted according to government auditing standards issued by the United States General Accounting Office.

(13) Contracts entered into to advance money to a local road agency under subsection (1)(g) are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(14) The department shall prepare on an annual basis a report listing all warranties that were secured under subsection (2) and indicate whether any of those warranties were redeemed and all pavement projects whose costs exceed \$2,000,000.00 for which a warranty was not secured as described in subsection (2). The department shall make the report required by this subsection available to the public upon request and shall also post the report on its website, which shall include, but is not limited to, all of the following information:

- (a) The type of project.
- (b) The cost or estimated cost of the project.
- (c) The expected lifespan of the project.
- (d) Whether or not the project met or is currently meeting its expected lifespan.
- (e) If the project failed to meet or is not meeting its expected lifespan, the cause of the failure and the cost to replace or repair the project.
- (f) The entity responsible for paying the cost of replacing or repairing the project.

(15) As used in this section:

- (a) "Local road agency" means that term as defined in section 9a.
- (b) "Rail grade crossing improvement purposes" means 1 or more of the following:
  - (i) The installation and modernization of active and passive warning devices at railroad grade crossings.
  - (ii) The installation or improvement of grade crossing surfaces.

(iii) Modification, relocation, or modernization of railroad grade crossing active and passive warning devices necessitated by roadway improvement projects.

(iv) Test installations of innovative warning devices or other innovative applications.

(v) Construction of new grade separations.

(vi) A cash incentive payment made pursuant to subsection (1)(c)(iv) for any public road or street crossing, in an amount no greater than the cost of installing flashing light signals and half roadway gates at the crossing.

(vii) Any other work that would be eligible for funding under the federal railroad-highway grade crossing improvement program or other comparable programs.

**History:** 1951, Act 51, Eff. June 1, 1951;—Am. 1957, Act 262, Eff. July 1, 1957;—Am. 1967, Act 298, Eff. Jan. 1, 1968;—Am. 1967, Ex. Sess., Act 4, Eff. Jan. 1, 1968;—Am. 1976, Act 264, Imd. Eff. Oct. 1, 1976;—Am. 1978, Act 444, Imd. Eff. Oct. 10, 1978;—Am. 1978, Act 502, Imd. Eff. Dec. 13, 1978;—Am. 1979, Act 58, Imd. Eff. July 18, 1979;—Am. 1982, Act 438, Eff. Jan. 1, 1983;—Am. 1983, Act 82, Imd. Eff. June 15, 1983;—Am. 1984, Act 104, Imd. Eff. May 8, 1984;—Am. 1985, Act 124, Imd. Eff. July 31, 1985;—Am. 1987, Act 234, Imd. Eff. Dec. 28, 1987;—Am. 1992, Act 224, Imd. Eff. Oct. 15, 1992;—Am. 1993, Act 294, Imd. Eff. Dec. 28, 1993;—Am. 1997, Act 79, Eff. July 28, 1997;—Am. 1998, Act 308, Imd. Eff. July 29, 1998;—Am. 2000, Act 188, Imd. Eff. June 20, 2000;—Am. 2002, Act 466, Imd. Eff. June 21, 2002;—Am. 2002, Act 498, Imd. Eff. July 3, 2002;—Am. 2002, Act 639, Imd. Eff. Dec. 23, 2002;—Am. 2015, Act 175, Eff. Apr. 1, 2016.

**Compiler's note:** Act 87 of 1955, referred to in this section, was repealed by Act 1 of 1956, Ex. Sess., Act 263 of 1957, and Act 6 of 1967, Ex. Sess.

**Compiler's note:** Enacting section 1 of Act 473 of 2014 provides:

"Enacting section 1. This amendatory act does not take effect unless House Joint Resolution UU of the 97th Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

House Joint Resolution UU was presented to the electors as Proposal 15-1 at the May 5, 2015 special election. The proposal to amend the constitution was not approved by the voters and Act 473 of 2014 does not go into effect.

**Popular name:** McNitt Act

**Popular name:** Michigan Transportation Fund Act